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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,280	03/23/2004	Philip Feldman	2217.0007CIP	1846

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EXAMINER	
LIM, SENG HENG	

ART UNIT	PAPER NUMBER
3714	

NOTIFICATION DATE	DELIVERY MODE
12/11/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

epatent@usiplaw.com

Office Action Summary	Application No.	Applicant(s)	
	10/806,280	FELDMAN ET AL.	
	Examiner	Art Unit	
	SENG H. LIM	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 July 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5 and 7-43* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5 and 7-43* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *9/2/08, 7/22/08, 1/16/08*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

This office action is in response to the amendment filed on 7/22/08 in which applicant amends claims 1, 20, 23, & 41; cancelled claim 6; and responds to the claim rejections. Claims 1-5 & 7-43 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-5, 7-10, 19, 23-31 & 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimojima et al (US 5,713,794) in view of Zillig et al (US 2004/0097331 A1)

Re claim 1, 23. Shimojima et al disclose a method and a support structure for interacting with a gaming application comprising a base in the form of a platform to directly support a user thereon in a standing position (120: Fig. 9); a game controller including plurality of individually manipulabile input devices to interact with said gaming application (i.e. selection and decision button, 112, 114 & 116, and a swinging member, 120: Fig. 9, for controlling virtual moving object in the game, Abstract); a rod (118: Fig. 9) secured to said base to control a corresponding desired action within said gaming application based on forces applied to said rod by said user to operate in said standing position (i.e. player applies forces on the two ski sticks, 118, to help move the swinging member); and a body support including a post secured to said base to support a lower body portion of said user in said standing position (i.e. the two ski sticks, 118, helps player to support his own body), (col. 4, lines 62-65).

Shimojima et al do not disclose a game controller being directly attached to an upper portion of said rod. Zillig et al discloses a game controller, including a plurality of individually manipulable input devices to interact with a gaming application, being directly attached to an upper portion of said rod (37: Fig. 9), [0046, 0065]. At the time of invention a person of ordinary skill in the art would have found it obvious to modify Shimojima et al's gaming machine to include a game controller on the rod or ski stick as

taught by Zillig et al to provide more game related controls easily accessible with the ski sticks.

Re claim 2, 24. Shimojima et al disclose at least one gripping surface to accommodate user feet (120:Fig. 9).

Re claim 3-5, 25-27. Zillig et al discloses said rod includes an adjustment mechanism to adjust at least one of a position and orientation of said game controller relative to said user, wherein said adjustment mechanism includes a dimensions adjustment and a pivot mechanism to adjust orientation of game controller [0063].

Re claim 7, 28. Shimojima et al discloses a support member secured to said post to engage and support said user lower body portion (118: Fig. 9).

Re claim 8-10, 29-31. Shimojima et al does not disclose said post to include an adjustment mechanism to adjust a position of said support member and dimension of said post relative to said user and a pivot mechanism; however, Zillig et al disclose the rod to include an adjustment mechanism to adjust at least one of a position and orientation of said game controller relative to said user, wherein said adjustment mechanism includes a dimensions adjustment and a pivot mechanism to adjust orientation of game controller [0063]. Since Shimojima et al disclose the ski stick or rod being the supporting member of the player's body (col. 4, lines 60-65), it is obvious that Shimojima et al, in combination with Zillig et al teach said post to include an adjustment mechanism to adjust a position of said support member and dimension of said post relative to said user and a pivot mechanism.

Re claim 19, 40. Zillig et al discloses the use of the force input to control a video game [0013-0014]. For example, in order to control a car's speed, a bicycle or other vehicle may be used by adjusting an amount of force and speed applied by the user. The paddling of the bicycle is a form of isokinetic exercise by the user.

Claims 11-18 & 32-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimojima et al (US 5,713,794) and Zillig et al (US 2004/0097331 A1) as applied to claim 1 & 23, and further in view of Brawne et al (US 5,805,138).

Re claim 11, 32. Shimojima et al and Zillig et al teach the invention substantially as claimed, but does not specifically disclose the rod providing an isometric exercise for the user and including a sensor coupled at a selected location on the rod to measure a force applied by the user to the rod and game controller, and wherein the applied force effects a measurable strain on the rod.

However, as stated in applicant arguments/remarks made in an amendment file on October 24, 2007, page 15, third paragraph, "isometric exercise typically involves the exertion of force by a user against an object that significantly resists movement as a result of the exerted force such that there is substantially minimal or no movement of the user's muscles during the force exertion. Examples of simple forms of isometric exercise include pushing against a stationary surface (e.g., a doorframe or a wall)." Essentially, isometric exercise also includes lifting a weight and holding it. Hence, it is obvious that a user may perform isometric exercise with Simjian's structure by exerting

force on to the rod, wherein the rod typically resists movement such that there is substantially minimal or no movement of the user's muscles during the force exertion.

Brawne et al discloses coupling sensors at select location on a rod to measure at least one force applied by said user, wherein said applied force effects a measurable strain on said rod (13:23-31). At the time of invention a person of ordinary skill in the art would have found it obvious to modify Shimojima et al and Zillig et al's support structure to include a strain gage in order to measure the amount of forces applied on the rod or ski stick to control a gaming application such as moving the ski sticks in the game (Abstract).

Re claim 12-13, 33-34. Brawne et al discloses a processor (30 & 36: Fig. 1A) to receive and process data corresponding to applied force information measured by the sensor to produce information in a format resembling data output from a gaming application peripheral to facilitate user interaction with said gaming application in response to said force applied by said user (14:15-32).

Re claim 14, 35. Brawne et al discloses a display controlled by said processor (16: Fig. 1A).

Re claim 15-17, 36-38. Brawne et al disclose the processor and input device selectively adjust an amount of force needed to be applied by said user to facilitate user interaction with said gaming application (14:15-32); however, but does not expressly disclose determining an amount of work applied by said user for a selected period of time and controls said display to output information relating to the amount of work applied by said user. It would have been an obvious modification to include in

Shimojima et al, Zillig et al and Brawne et al's method since work is defined as force times the distance traveled.

Re claim 18, 39. Brawne et al discloses including a handle to receive at least one force applied by said user (212 & 210: Fig. 2A).

Claims 20-22 & 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimojima et al (US 5,713,794) in view of Zillig et al (US 2004/0097331 A1) and Brawne et al (US 5,805,138).

Re claim 20 & 41. Shimojima et al disclose a method and a support structure for interacting with a gaming application comprising a base in the form of a platform to directly support a user thereon in a standing position (120: Fig. 9); a game controller including plurality of individually manipulabile input devices to interact with said gaming application (i.e. selection and decision button, 112, 114 & 116, and a swinging member, 120: Fig. 9, for controlling virtual moving object in the game, Abstract); a rod (118: Fig. 9) secured to said base to control a corresponding desired action within said gaming application based on forces applied to said rod by said user to operate in said standing position (i.e. player applies forces on the two ski sticks, 118, to help move the swinging member); and a body support including a post secured to said base to support a lower body portion of said user in said standing position (i.e. the two ski sticks, 118, helps player to support his own body), (col. 4, lines 62-65).

Shimojima et al do not disclose a game controller being directly attached to an upper portion of said rod. Zillig et al discloses a game controller, including a plurality of

individually manipulable input devices to interact with a gaming application, being directly attached to an upper portion of said rod (37: Fig. 9), [0046, 0065]. At the time of invention a person of ordinary skill in the art would have found it obvious to modify Shimojima et al's gaming machine to include a game controller on the rod or ski stick as taught by Zillig et al to provide more game related controls easily accessible with the ski sticks.

Shimojima et al and Zillig et al does not disclose said rod controls a corresponding desired action with said gaming application based on forces applied to said rod by said user, wherein said applied force effects a deformation of said rod; however, Brawne et al discloses coupling sensors at select location on a rod to measure at least one force applied by said user as inputs for a gaming application, wherein said applied force effects a measurable strain on said rod (13:23-31). At the time of invention a person of ordinary skill in the art would have found it obvious to modify Simjian and Zillig et al's support structure to include a strain gage in order to measure the amount of forces applied on the rod or ski stick to control a gaming application such as moving the ski sticks in the game (Abstract).

Shimojima et al, Zillig et al and Brawne et al teach the invention substantially as claimed, but does not specifically disclose the rod providing an isometric exercise for the user and including a sensor coupled at a selected location on the rod to measure a force applied by the user to the rod and game controller, and wherein the applied force effects a measurable strain on the rod.

However, as stated in applicant arguments/remarks made in an amendment file on October 24, 2007, page 15, third paragraph, "isometric exercise typically involves the exertion of force by a user against an object that significantly resists movement as a result of the exerted force such that there is substantially minimal or no movement of the user's muscles during the force exertion. Examples of simple forms of isometric exercise include pushing against a stationary surface (e.g., a doorframe or a wall)." Essentially, isometric exercise also includes lifting a weight and holding it. Hence, it is obvious that a user may perform isometric exercise with Simjian's structure by exerting force on to the rod, wherein the rod typically resists movement such that there is substantially minimal or no movement of the user's muscles during the force exertion.

Re claim 21 & 42. Zillig et al discloses said rod includes an adjustment mechanism to adjust at least one of a position and orientation of said game controller relative to said user, wherein said adjustment mechanism includes a dimensions adjustment and a pivot mechanism to adjust orientation of game controller [0063].

Re claim 22 & 43. Shimojima et al disclose said rod is configured for attachment to a floor (Fig. 9).

Response to Arguments

Applicant's arguments with respect to claims 1-5 and 7-43 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seng H. Lim whose telephone number is 571-270-3301. The examiner can normally be reached on 8:30-6:00, Monday-Friday, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Seng H Lim/

Examiner, Art Unit 3714

/Corbett Coburn/
Primary Examiner
AU 3714